

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2005-0080, State of New Hampshire v. Jeremy D. Paradis, the court on August 22, 2006, issued the following order:

The defendant appeals his two convictions in Rochester District Court for simple assault, a class A misdemeanor. By order dated December 27, 2005, we affirmed the trial court's decision in part and deferred ruling upon the remaining issues until after oral argument. Following oral argument, we issued an order questioning whether we have subject matter jurisdiction over this appeal, see Harley-Davidson Motor Co. v. Seacoast Harley-Davidson, 152 N.H. 387, 389 (2005) (stating that issue of subject matter jurisdiction may be raised at any time in the proceedings because jurisdiction cannot be conferred where it does not already exist), and the defendant filed a supplemental memorandum addressing that issue.

Under RSA 599:1 (2001) (amended 2006), a person convicted of a class A misdemeanor may appeal therefrom to the superior court, not directly to this court. We conclude that we do not have subject matter jurisdiction over this appeal. See State v. Polk, 153 N.H. ___, ___ (decided Aug. 4, 2006); State v. Homo, 132 N.H. 514, 517-18 (1989) (decided under former RSA 599:1); see also Justices of Boston Municipal Court v. Lydon, 466 U.S. 294 (1984). Accordingly, we vacate our order of December 27, 2005, and dismiss this appeal. Cf. Polk, 153 N.H. at ___ (dismissing appeal over which court had no jurisdiction).

The defendant argues that his double jeopardy issues present unique concerns that require us to exercise our superintendent jurisdiction over the district court. Even if we were to assume that the defendant is entitled to have us exercise original jurisdiction over his double jeopardy claims, see Sup. Cr. R. 11; cf. Petition of Ann Crane, 132 N.H. 293, 298 (1989) (court will treat appeal as petition for writ of certiorari), we would conclude that those claims are without merit essentially for the reasons set forth in the State's brief.

Order vacated; appeal dismissed.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**